

FPPC TASK FORCE SUB-COMMITTEE: FILING DEADLINES

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Background

In 2000, the Bipartisan Commission on the Political Reform Act (“McPherson I”) found that the existing campaign filing schedule under the Political Reform Act needs to be “simplified and streamlined” in order to create a better understanding of the filing requirements and to create greater certainty for filers. McPherson I’s recommendations focused on a quarterly filing schedule for all general purpose recipient committees and eliminating the requirement of pre-election reports for such committees. McPherson I also proposed the elimination of “supplemental pre-election reports” and special “odd year quarterly reports” for all committees.

In 2006, the Secretary of State’s Task Force on Online Disclosure of Campaign Finance Statements (“McPherson II”) also recommended a simplified filing calendar for state electronic filers, with reporting required on a more frequent but more easily understood schedule. McPherson II proposed the establishment of a robust filing schedule that included a combination of quarterly and weekly reports, and a single pre-election report.

Any proposal for changes to the filing schedule necessarily requires the balancing of two competing interests: the interest of timely disclosure of campaign activities and the interest of filers in an understandable and not overly-burdensome filing schedule. McPherson I probably leaned more toward the interests of filers, and McPherson II the interests of timely disclosure. The following recommendations are intended to strike more of a balance between the two interests.

However, these proposals largely address *state filers only*, as the State’s electronic filing system offers significant advantages in terms of accessibility of public disclosure that allows for simplified filing schedules and reduced reporting burdens without the loss of important data accessible to the public electronically.

Proposals

The Sub-Committee presents two *alternative proposals* for the Task Force’s consideration.

Proposal – Alternative 1

In essence, this proposed filing schedule creates a quarterly filing system for state filers with activity-based election cycle reporting. Candidate-controlled committees and primarily-formed committees would be the only committees that would file quarterly with a mandatory second pre-election statement. For general purpose committees, the pre-election statements would be activity based.

FILING REQUIREMENTS

This proposal includes consolidation of reports so that the Form 460 is the major report used with one or two supplemental reports for everything else. While this system would incorporate activity-based thresholds for filing of special reports, quarterly reports are mandatory but have a check-box option on the Form 460 saying “NO ACTIVITY” and permitting committees to only file the cover page and the summary page. This designation would include committees with a certain amount of de minimus activity. The next quarterly statement filed would provide coverage starting from the ending date of the last quarterly statement filed.

QUARTERLY REPORTS AND PRE-ELECTION STATEMENTS

- Candidate-controlled committees/primarily-formed committees (State): File quarterly with one mandatory pre-election statement.
- Political party committees: File quarterly, with an activity threshold to require filing of a pre-election statement. (THRESHOLD OPTION: \$1,000 or \$5,000 for contributions or IEs made)
- General purpose committees/PACs (State): File like political party committees with quarterly filings and activity threshold pre-election statement. (THRESHOLD OPTION: \$1,000 or \$5,000 for contributions or IEs made)
- Independent Expenditure Committees: All quarterly filings are activity based except the year end quarterly statement is mandatory. (THRESHOLD OPTION: \$1,000 or \$5,000 IEs made.) These filing thresholds would apply after the committee reaches the threshold to qualify as a committee for that calendar year.
- Major Donor committees: All quarterly filings are activity based except the year end quarterly statement is mandatory. (THRESHOLD OPTION:

\$1,000 or \$5,000 contributions made; IEs made.) These filing thresholds would apply after the committee reaches the threshold to qualify as a committee for that calendar year.

SUPPLEMENTAL REPORTING

All committees would be subject to supplemental reporting based on activity. Many reports would be consolidated into these reports on ONE FORM – a combo 496/497.

- **Outside the election cycle (election cycle to be redefined as 45 days before the election rather than 90 days):** (This is information that also would be reported on the quarterly statements.) Require reports filed within 10 calendar days based on activity and filed with SOS and the jurisdiction the candidate or measure is on the ballot. In addition, for IEs made that meet the threshold, the report must also be filed in the jurisdiction where they spent the money.
 - For all candidate controlled and primarily formed committees, contributions received of \$5,000 or more; IEs of \$5,000 or more.
 - For all general purpose recipient committees, including political party committees and ballot measure committees, contributions made of \$5,000 or more; IEs of \$5,000 or more.
- **During election cycle (the last 45 days before the election):** (This is information that also would be reported on a quarterly statement and the pre-election statement.) Require reports filed within 24 hours (apply next business day exception for activity during weekend that is not the last weekend before the election only) based on activity. The amounts during this period are cumulative.
 - For all candidate controlled and primarily formed committees, contributions made or rec'd of \$1,000 or more; IEs of \$1,000 or more.
 - For all general purpose committees, including political party committees and ballot measure committees, contributions made or contributions rec'd from a single source of \$2,000; IEs of \$2,000 or more. Major donor committees and independent expenditure committees would also be required to file under this category.

This proposal eliminates:

- Political party committees filing a pre-election statement because of contributions received.
- Filing reports during any other weekend other than the weekend before the election.
- The Paid Spokesperson Reports found in §84511. This proposal recommends that this information be added as an expenditure code rather than as a separate report. An option if the task force members determine that this disclosure is important is to add this activity as an additional threshold to the last 16 days before the election report. For instance, for candidate-controlled committees, add the requirement that expenditures made of \$5,000 or more to pay or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage or defeat of a ballot measure triggers the report.
- The \$5,000 Ballot Measure Reports found in §84204.5.
- The Supplemental IE Reports found in §84203.5.
- The Odd-year Reports found in §84202.7.
- The Supplemental Pre-election Reports found in §84202.5.
- The Ballot Measure Reports of §84202.3.
- One pre-election statement.
- And combines the late contribution report with the late independent expenditure report so that all 24 hour reports are filed on the same form.

Proposal – Alternative 2

1. Candidate-Controlled Committees, Primarily-Formed

Committees, and Political Parties – State Filers: State electronic filers which are either *candidate-controlled* or *primarily formed* to support or oppose a candidate or ballot measure should continue to file 10 day reports (Form 497) disclosing receipts of \$5,000 or more outside the election cycle and 24 hour reports (Form 497) disclosing receipts of \$1,000 or more during the 90 day election cycle prior to an election. However, the following modifications are proposed for candidate-controlled committees and primarily-formed committees:

- A. Candidate-controlled and primarily-formed committees should be required to file Form 460 on a quarterly basis, with the report due on the 20th of the month following the close of the quarter. However, the third quarter report in even years would have an earlier due date of October 10th.
- B. Candidate-controlled and primarily-formed committees should also be required to file a single pre-election Form 460 due 12 days before the election, covering the period through 19 days before the election. This 7 day window would give the committees 5 business days to prepare and to file the pre-election report.
- C. The 24 hour reporting deadline for contributions received of \$1,000 or more during the 90 day election cycle should be modified such that the computation of the deadline *excludes* weekends and holidays except for during the *final weekend* before an election.
- D. These rules should also apply to political party committees that are state electronic filers.

2. General Purpose Recipient Committees – State Filers: The reporting deadlines for state filers formed as general purpose recipient committees (other than candidate-controlled committees and political party committees, discussed above) should be simplified as follows:

- A. State filer general purpose recipient committees (other than candidate-controlled committees and political parties) should be required to file Form 460 on a quarterly basis, with reports due on the 20th of the month following the quarter. This simplified reporting schedule should be in effect in even *and* odd-numbered years, and for all quarters of the year *irrespective* of the election date.
 - B. State *electronic* filer general purpose recipient committees that are active with ballot measures should continue to file within 10 business days so-called “Umberg reports” when they make a contribution or independent expenditure of \$5,000 or more in connection with a ballot measure, disclosing not only the expenditure made, but also the contributions received since the committee’s last report. This additional filing requirement should adequately address the concern that the public receive adequate disclosure of large contributions received by the general purpose recipient committee and then passed on to a ballot measure committee, under the less frequent filing of Form 460 in the quarterly system above.
3. **Committees Making Independent Expenditures – State Electronic Filers:** State electronic filers who make independent expenditures should continue to file 24 hour reports on Form 496 disclosing independent expenditures made of \$1,000 or more within the 90 day election cycle, as well as contributions received since the last report filed.
4. **Major Donor Committees – All Filers:** Major Donor Committees should be required to file Form 461 Major Donor Reports on a semi-annual basis only.
- A. The “special odd year quarterly” filing requirement for Major Donors should be eliminated as unnecessary, not well understood, and inherently confusing.
 - B. The special rules for “City Major Donors” potentially requiring pre-election Form 461 filings should also be eliminated for the same reasons: this filing requirement is unnecessary, understood by few, and very confusing.

E. Major Donors should continue to file 24 hour reports for contributions made of \$1,000 or more during the 16 days before an election.

However, this 24 hour reporting deadline for contributions made should be modified such that the computation of the deadline excludes weekends and holidays except for during the *final weekend* before an election.

5. **County and City Filer Recipient Committees:** No recommendations for changes at this time. The complexities created by a myriad of election dates at the local level, and the lack of an accessible, searchable database for non-electronic filers, makes it very difficult to apply the above streamlined and simplified reporting requirements at the local level. Local filings, and ultimately all filings, must move to an electronic format (outside the scope of this sub-committee) before the above proposals can be recommended for non-electronic filer recipient committees.